



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO NY 14202-4040

In re Application of
ROHNERT, PETER et al. : OCT 20 2010
Application No.: 10/764,676 : DECISION ON
Filing or 371(c) Date: January 26, 2004 : PETITION
Attorney Docket Number: 13183.0037 :

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on March 4, 2009.

This petition is **DISMISSED**.

The application was held abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed October 29, 2008 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on February 23, 2009.

In order for a petition to be granted, the evidence must be sufficient according to one of the following standards:

MPEP 503 (postcard receipt as prima facie evidence)
Certificate of Mailing under 37 CFR 1.8(b)
"Express Mail" Mailing under 37 CFR 1.10

MPEP 503 states the following:

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all items listed thereon on the date stamped thereon by the USPTO.

Unfortunately MPEP 503 is not applicable since there is no record of receipt of the Return Receipt Postcard, which if received in the Office would have been stamped (referred to as "Office Date" stamp) acknowledging receipt of the items identified thereon.

Provisions under 37 CFR 1.8(b) requires that the petitioner (1) promptly inform the Office of the previous timely mailing or transmission after becoming aware that the Office has no evidence of receipt of the correspondence, (2) supply copies of the previously mailed correspondence with certificate of mailing thereon, and (3) include a statement which attests to the previous timely mailing.

37 CFR § 1.10 is not applicable since this procedure was not used.

The holding of abandonment cannot be withdrawn at this time.

Although this petition for withdrawal of the holding of abandonment is being dismissed, other petition remedies are available for bringing about the withdrawal of the holding of abandonment. File a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). Forms are available at USPTO website <http://www.uspto.gov>

- Under 37 CFR 1.13(a), a petition for the revival of an *unavoidable* abandoned
- Under 37 CFR 1.137(b), a petition for the revival of an *unintentionally*

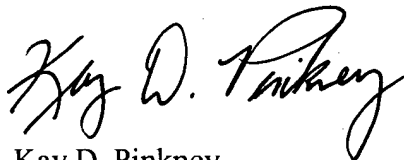
Further correspondence with respect to the petition for revival under 37 CFR 1.137 should be directed to the Office Of Petition at 703-305-9282 or addressed as follows:

By mail: Commissioner for Patents
P O Box 1450
Mail Stop Petitions
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.



Kay D. Pinkney
Application Assistance Unit
Office of Data Management